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The Plight of Women Experiencing Domestic Violence in China: The Absence of Relief and Legal Blind Spots

Han Lu

University of New South Wales, Sydney, AUSTRALIA
Faculty of Law & Justice

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Abstract

This paper examines why women subjected to domestic violence in China do not receive effective relief, exploring whether the legal system fails to protect women beyond the influence of traditional Chinese patriarchal attitudes. By analyzing multiple typical cases of domestic violence in China, I find that effective relief is absent both during the ongoing violence and after severe violent incidents have occurred. The legal framework has blind spots throughout the entire period when women are experiencing domestic violence. Through effective legal intervention and cross-sectoral relief efforts, the plight of women facing domestic violence in China can be alleviated.

Keywords: domestic violence, women subjected to domestic violence, legal gaps, cross-sectoral relief.

1. Introduction

China has long been influenced by the traditional patriarchal mindset that prioritizes men over women, leading to a lack of emphasis on women's rights.[1] Historically, Chinese traditional laws have even condoned domestic violence, treating it not as a crime but as an internal family matter. The implementation of the "Anti-Domestic Violence Law of the People's Republic of China" on March 1, 2016[2], signifies China's growing attention to domestic violence issues. However, in judicial practice, women subjected to domestic violence often do not receive effective relief, and there are gaps in the legal handling of such cases.[3] Many courts believe that when dealing with domestic violence between specific family members, such as spouses, it is advisable to promote mutual understanding and compromise.[4] They need to actively seek mediation and intervention from residents' committees, villagers' committees, women's federations, and other organizations to resolve conflicts and restore family relationships, rather than directly confronting

[1] Li, C. K. W., Liu, J., & Chen, X. (2023). Chinese Women's Financial Independence and Their Intimate Partner Violence Victimization Experiences. *Violence against Women*, *29*(5). https://doi.org/10.1177/10778012221097143

[2] See Order of the President of the People's Republic of China (No. 37).

[3] See the cases in the two tables below.

[4] He, X., & Hang Ng, K. (2013). In the Name of Harmony: The Erasure of Domestic Violence in China's Judicial Mediation. *International Journal of Law, Policy, and the Family*, *27*(1), 97–115. https://doi.org/10.1093/lawfam/ebs014

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Correspondence: Han Lu, University of New South Wales, Faculty of Law & Justice, Sydney, AUSTRALIA.

and escalating the conflict.[5] However, through analyzing multiple cases, I found that effective relief is lacking during the ongoing period of domestic violence, and it is precisely because of the lack of effective relief that domestic violence eventually escalates into serious crimes. Domestic violence is typically classified as a civil tort or an administrative violation under the "Law of the People's Republic of China on Penalties for Administration of Public Security 2012".[6] Only a minority of domestic violence acts, due to their severity, circumstances, methods, and consequences, are elevated to criminal offenses, with domestic violence resulting in death being the most severe consequence and falling within the scope of criminal law punishment[7]. Even when sentencing criminal cases involving domestic violence, Chinese courts consider the emotional and familial bonds between family members, making the determination of domestic violence more ambiguous. Generally, only when domestic violence results in serious consequences can it be recognized as intentional harm.

By collecting data and analyzing cases where defendants commit domestic violence causing serious injury or death to victims (Table 1), and cases where women subjected to domestic violence retaliate against their abusers (Table 2), I study the plight of women subjected to domestic violence in China. Furthermore, I propose feasible ways to effectively relieve women subjected to domestic violence and how to enable the law to play its role in addressing such issues.

2. The absence of relief

Table 1. Cases of defendants' domestic violence resulting in victim serious injury or death

Case Name	Brief Overview of the Case	Adjudication Results	Effectiveness of Relief for Women
The Criminal Verdict of the Second Instance for Zhan Mouhu[8]	The accused engaged in prolonged domestic abuse towards the victim, culminating in a fatal assault on the day of the incident, which led to the victim's death despite resuscitation efforts. Notably, the victim was pregnant at the time of the incident.	Life imprisonment	The victim failed to obtain effective relief. Following their marriage, the defendant consistently engaged in domestic violence against the victim and confined the victim's liberty. As a result, the victim attempted to seek a divorce through the local court but was unsuccessful in doing so.
Li Aiga's Second-Instance Criminal Verdict on Intentional Injury[9]	The defendant and the victim maintained a cohabiting relationship. Throughout their	A fixed-term imprisonment of 13 years	The victim failed to obtain effective relief. The police had issued two domestic violence

[5] Ibid.

[6] See Order of the President of the People's Republic of China (No. 67).

[7] Domestic Violence Resulting in Death: Is It "Intentional Homicide" or "Abuse Crime". (2024, January 4). www.cctv.com: News +. https://news.cctv.com/2024/01/04/ARTInhZIpiS7miOpoNdJXpD4240104.shtml.

[8] Case No. (2023) Wan Xing Zhong No. 236.

[9] Case No. (2020) Yun Xing Zhong No. 1387.

	cohabitation period, the defendant repeatedly assaulted the victim. On the day of the incident, a quarrel broke out between them, leading to the victim's death due to an intracranial hemorrhage caused by prior assaults by the defendant.		warning letters to the defendant, but this did not alleviate the defendant's behavior of committing domestic violence.
Li Yanjiang's Second-Instance Criminal Verdict on Intentional Injury[10]	The defendant exhibited extreme and violent behavior, exhibiting strong tendencies towards domestic violence. He frequently verbally abused and physically assaulted family members and his wife. On the day of the incident, the defendant assaulted the victim, resulting in their death the following day.	Life imprisonment	The victim failed to obtain effective relief. Three years ago, the victim reported to the local police station that she had been assaulted by the defendant, but there was no follow-up.
Ma Waixi's Criminal Verdict on Intentional Injury[11]	The defendant had been subjecting the victim to long-term domestic violence. At the time of the incident, under the influence of alcohol, the defendant punched and kicked the victim, resulting in their death.	A fixed-term imprisonment of 12 years	The victim failed to obtain effective relief. The victim had been subjected to long-term domestic violence and was eventually beaten to death by the defendant. During this period, there were no effective remedies to protect them from harm.
Xu Weitian's Second-Instance Criminal Verdict on Intentional Injury[12]	At the time of the incident, the defendant continuously assaulted the victim for several minutes, causing multiple injuries to the victim's body, which led to her death in the early hours of the following day.	Life imprisonment	The victim failed to obtain effective relief. Throughout the entire assault, the victim was unable to obtain help and was beaten to death.
The Second-Instance Criminal Verdict on Lu Shulin's	The two had already been divorced due to the defendant's long-term	Life imprisonment	The victim failed to obtain effective relief. During the marriage

[10] Case No. (2018) Yun Xing Zhong No. 1376.

[11] Case No. (2017) Gan Xing Zhong No. 187.

[12] Case No. (2017) Wan Xing Zhong No. 22.

Intentional Homicide and the Related Civil Litigation Brought by Plaintiffs Jia Moumou and Gao Mouyi[13]	domestic violence. At the time of the incident, the defendant, dissatisfied with the victim's divorce from him, stabbed the pregnant victim multiple times in vital areas, causing serious injuries to the victim.		of the two parties, the Public Security Bureau had detained the defendant twice due to domestic violence, but this did not serve as a deterrent.
He Mingshen's Second-Instance Criminal Verdict on Intentional Homicide[14]	The defendant used a knife to chop the victim, resulting in the victim's immediate death.	Life imprisonment	The victim failed to obtain effective relief. More than ten years ago, the victim had attempted to apply for divorce from the court due to domestic violence and sexual abuse, but was unsuccessful.

After a comparative analysis of the cases mentioned above, it can be observed that in all such instances, the defendants' actions were almost exclusively classified as intentional injury rather than intentional homicide. Additionally, the severity of the sentences did not align with other intentional injury cases in China and generally tended to be lighter. Most importantly, women subjected to domestic violence did not receive effective relief before or during the occurrence of these severe incidents. Domestic violence is a long-term, continuous process. So why are women suffering from domestic violence unable to escape the abuser's "clutches" over this extended period? Firstly, due to the unique nature of domestic violence itself, its types are diverse, and the behaviors are covert, limiting the ability of women to gather evidence against the perpetrators. Secondly, women suffering from domestic violence often have a weak sense of their rights. Influenced by the traditional Chinese notion that "family ugliness should not be exposed," most women initially choose to endure or forgive the abuse without the awareness to preserve evidence or seek help from public security organs or other organizations. Lastly, women subjected to domestic violence lack legal and effective means for safeguarding their rights and seeking relief. As seen in the cases above, many victims sought legal assistance during the ongoing domestic violence, but the outcomes were unsatisfactory: some victims filed for divorce unsuccessfully, some had restraining orders issued against the abusers, and others reported to the police (see Table 1). However, these measures did not alleviate the victims' situations and even intensified the abusers' violent behaviors, ultimately leading to tragic outcomes. Judges, when ruling on divorce cases involving domestic violence, did not exercise proactivity and passively accepted evidence. Domestic violence cases are distinctive, and victims often cannot gather sufficient evidence effectively. China lacks clear punitive standards for violations of domestic violence restraining orders and does not have a well-established personal safety protection order system.[15]

[13] Case No. (2016) Shan Xing Zhong No. 237.

[14] Case No. (2016) Yue Xing Zhong No. 575.

[15] Zheng, R., Xie, Z., & Duan, Z. (2024). Challenges Identifying Domestic Violence in Chinese Judicial Practice: An Empirical Analysis of Personal Safety Protection Orders. *Violence against Women*, 10778012241297253-, 1-24. https://doi.org/10.1177/10778012241297253

Consequently, most women subjected to domestic violence face difficulties in gathering evidence or are unable to do so, resulting in frequent denials of their applications.[16]

3. Legal blind spots

Criminal cases resulting from domestic violence in China are not classified under a specific independent charge within the criminal law; they are usually regulated and penalized through charges such as intentional homicide, intentional injury, negligent homicide, and abuse.[17]

The following are the cases involving women who have killed their abusers in response to domestic violence, and it has been observed that the legal system exhibits blind spots in these types of cases.

Table 2. Cases of women experiencing domestic violence who killed their abusive partners

Case Number	Brief Overview of the Case	Adjudication Results	Effectiveness of Relief for Women
the Criminal Verdict on Intentional Injury Issued by the People's Procuratorate of Linxia Hui Autonomous Prefecture, Gansu Province, in the Second-Instance Trial Involving Shan Meilan.[18]	The defendant, suffering from schizophrenia, was subjected to domestic violence by her husband at the time of the incident. Consequently, she picked up a pair of scissors and stabbed her husband to death.	A fixed-term imprisonment of 12 years	The victim failed to obtain effective relief. The court determined that the woman was not under the influence of mental symptoms and that the incident occurred solely due to temporary emotional and behavioral dysregulation triggered by domestic violence.
Zhu Xiaomei's Second-Instance Criminal Judgement on Intentional Homicide [19]	The two were in a remarried relationship. The victim, disliking his stepson, often beat him without cause. The defendant frequently suffered beatings while trying to mediate. On the night of the incident, the woman used sleeping medication to render her husband	A fixed-term imprisonment of 15 years	The victim failed to obtain effective relief. The court did not find that the husband's domestic violence against his stepson and wife constituted significant fault, but only considered it to have some degree of fault in triggering this case.

[16] Gao, F. (2024). Judicial Dilemmas of Female Domestic Violence Victims: An Empirical Study Based on Chinese Civil Judgments in 2020. *Violence against Women*, *30*(9), 2252–2274. https://doi.org/10.1177/10778012221145303

[17] *Criminal Procedure Law of the People's Republic of China* (2018). Standing Committee of the National People's Congress. http://www.npc.gov.cn/englishnpc/c23934/202001/0a1a9344e1d146f6a8ec5e5a5d3e0bca.shtml.

[18] Case No. (2020) Gan Xing Zhong No. 189.

[19] Case No. (2020) Yu Xing Zhong No. 130.

	unconscious and then suffocated him with a tool.		
Ji Genxia's Second-Instance Criminal Verdict on Intentional Homicide[20]	The victim repeatedly subjected the defendant to domestic violence. Unable to tolerate it, the defendant poisoned her husband's meal on the day of the incident, resulting in his death.	A fixed-term imprisonment of 15 years	The victim failed to obtain effective relief. The court held that the victim's repeated acts of domestic violence against the defendant constituted a clear fault in triggering this case. However, the court did not fully consider this factor.
Li Fengjie's Second-Instance Criminal Judgement on Intentional Homicide[21]	The victim frequently subjected the defendant to domestic violence. At the time of the incident, while her husband was asleep, the woman stabbed him with a knife, resulting in his death.	A fixed-term imprisonment of 15 years	The victim failed to obtain effective relief. Although the forensic evaluation indicated that the defendant suffered from depression at the time of the crime and was assessed as having limited criminal responsibility, the court did not fully consider this factor, resulting in a relatively harsh sentence.
Huang Shiyu's Second-Instance Criminal Judgement on Intentional Injury[22]	Before the incident, the victim had assaulted the defendant several times over domestic matters. At the time of the incident, the woman used a knife in self-defense against her husband's violent behavior, resulting in his death.	A fixed-term imprisonment of 7 years	The victim failed to obtain effective relief. Although the court recognized that the defendant's actions constituted excessive self-defense, it deemed that the case was not triggered by domestic violence and thus did not fully protect the battered woman's right to counterattack.
Wang Dongqin's Second-Instance Criminal Verdict on Intentional Injury[23]	During the marriage, the victim had subjected the defendant to domestic violence. At the time of the incident, the two	A fixed-term imprisonment of 6 years	The victim failed to obtain effective relief. The incident occurred after the divorce, but the dissolution of the marriage did not

[20] Case No. (2019) Wan Xing Zhong No. 281.

[21] Case No. (2019) Liao Xing Zhong No. 458.

[22] Case No. (2018) Wan Xing Zhong No. 307.

[23] Case No. (2018) Ning Xing Zhong No. 79.

	had already divorced. The victim assaulted the defendant, who retaliated, resulting in the death of her ex-husband.		hinder the perpetrator's violent behavior towards the battered woman.
Xiong Yongmin's Second-Instance Criminal Judgement on Intentional Injury[24]	The victim had a long history of domestic violence. At the time of the incident, the victim first injured the defendant's head. The defendant retaliated when a third party intervened ineffectively, resulting in the death of her husband.	A fixed-term imprisonment of 3 years	The victim failed to obtain effective relief. Upon forensic evaluation through legal procedures, it was determined that the defendant suffered from a mental illness at the time of the crime, with significantly impaired recognition and control abilities, poor memory and intelligence, and mild intellectual disability. Moreover, the case was considered an act of self-defense. However, the defendant was still sentenced to actual imprisonment.
Li Jing's Second-Instance Criminal Judgement on Intentional Homicide[25]	The victim, suspecting the defendant of infidelity, often assaulted her after drinking. During the incident, a physical altercation ensued, and the defendant used tools such as a stool and rope to cause the victim's death.	A fixed-term imprisonment of 12 years	The victim failed to obtain effective relief. The court determined that the defendant's actions constituted intentional homicide and imposed a very harsh sentence.
Chen Shuzhen's Second-Instance Criminal Verdict on Intentional Homicide[26]	The victim, who had a habit of drinking alcohol, frequently assaulted the defendant. During the incident, the defendant used a kitchen knife to strike the victim's head and face, resulting in his death.	Life imprisonment	The victim failed to obtain effective relief. After being arrested, the defendant obtained forgiveness from the victim's relatives, but was still sentenced to life imprisonment.

[24] Case No. (2018) Wan Xing Zhong No. 160.

[25] Case No. (2018) Wan Xing Zhong No. 56.

[26] Case No. (2017) Nei Xing Zhong No. 31.

As can be seen from Table 2, courts have largely ignored the fact that women subjected to domestic violence suffer from long-term abuse and have focused solely on whether the woman was subjected to domestic violence at the time of the incident. In the cases mentioned above, I found that details about the abuser's domestic violence were rarely mentioned and mostly appeared in the testimonies of the abused women. Courts did not conduct sufficient social investigations or gather extensive evidence from the victims' and defendants' living environments. I once focused on a case involving a woman who killed her abuser in self-defense in Chongqing in 2020. Extensive evidence showed that the woman had long suffered unbearable domestic violence, and the entire village signed a petition requesting a lighter sentence for her, but the court did not consider this as an important basis for judgment. The court also did not regard domestic violence as a significant fault of the victim; in most cases, it was only considered one of the reasons that triggered the woman's counterattack, without fully considering the causal relationship between the abuse and the woman's response. The court even suggested that the woman's mishandling of gender relations led to the killing of her husband. In China, the criteria for psychiatric evaluation in criminal cases are extremely stringent, as can be seen in Table 2, where no woman was exempted from criminal punishment due to mental illness. In cases where women counterattack their abusers, almost all the mental illnesses they suffer from are caused by the abuser's previous domestic violence, manifesting in various forms such as depression and mania.[27]

In these counterattack cases, only when the abused woman fights back defensively is it recognized by the court as self-defense. If the counterattack results in the death of the abuser, it is generally deemed excessive defense, yet these women are still sentenced to fixed-term imprisonment. Moreover, many abused women choose non-confrontational methods to counterattack, such as when their husbands are asleep or unconscious. Such decisions are highly unfavorable to the abused women, with sentences generally being too harsh.

Considering the reasons behind abused women killing their abusers, it is precisely because of the lack of relief before the incident that abused women are forced to take private measures against the abuser's powerful authority. However, the court's judgment does not fully consider the psychological impact of domestic violence on women, as well as the characteristics of domestic violence (i.e., its continuity and concealment). In all the aforementioned judgments, the court acknowledged the presence of domestic violence against the victim before their death, but often imposed heavier sentences on the abused women, sometimes even more severe than those listed in Table 1. At this point, the lack of relief intersects with legal blind spots, leading to abused women not only having nowhere to turn during ongoing domestic violence but also receiving unduly harsh punishment after taking private measures. The court transforms the identity of abused women into criminals without considering the hidden circumstances behind their identity transformation.

The main reason abused women resort to non-confrontational methods of retaliation is that, objectively, women are far less physically capable than men and cannot fight back effectively in confrontational situations. Typically, confrontational retaliation would result in even more severe domestic violence, or even lead to death by male violence, as seen in the cases in Table 1. Subjectively, after suffering long-term domestic violence, women's psychology becomes distorted, and they may even develop "battered woman syndrome,"[28] making it nearly impossible for them to confront their abusers directly.

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[27] WALKER, L. E. A., Krauss, H., Denmark, F., Halpern, E., & Sechzer, J. (2006). Battered Woman Syndrome: Empirical Findings. *Annals of the New York Academy of Sciences*, *1087*(1), 142–157. https://doi.org/10.1196/annals.1385.023

[28] Walker, L. E. (2009). *The battered woman syndrome* (3rd ed.). New York, NY: Springer Pub. Company. p. 49.

4. Legal intervention and cross-relief in domestic violence cases

The law should effectively intervene throughout the entire period of domestic violence and during the litigation process following the harmful consequences. Public security organs, procuratorates, and courts should form a unified mechanism to protect women suffering from domestic violence. Firstly, when women report domestic violence, public security organs should provide sufficient protection and relief, and effectively punish the perpetrators. Professionals should offer comfort and psychological counseling to the victims. In special circumstances, such as severe domestic violence or risks of serious harm, personal safety protection orders can be issued to the victims. Perpetrators should be issued with a domestic violence warning letter (the compulsory effect of this legal document should be enhanced), and the incident should be recorded. Families involved should be placed under close supervision, and if there are signs or risks of recurrence, public security organs should take action.

As shown in Table 1 and Table 2, it is evident that the law has blind spots in the litigation process of domestic violence cases. Procuratorates should fully consider the details of domestic violence during the prosecution of such cases, investigating and gathering evidence on the duration and severity of the violence. In cases where domestic violence leads to the death of women, the prosecution should not solely rely on charges of intentional injury or abuse. Depending on the circumstances, charges of murder and intentional injury should be considered. The previous behavior of the defendant regarding domestic violence should be thoroughly understood. If the defendant has previously committed domestic violence against his wife, the current serious consequence is an escalation of ongoing domestic violence and must be severely punished. In cases where the abused woman retaliates against the perpetrator, the procuratorate should fully consider the significant physical and psychological impact on the woman resulting from long-term domestic violence and actively collect evidence of the perpetrator's domestic violence to submit to the court. When hearing such cases, courts should categorize them separately and file them as domestic violence cases. If the court finds that the evidence of domestic violence submitted by the procuratorate lacks probative value or that the procuratorate has not conducted a comprehensive and thorough investigation, the court should conduct its own investigation. The court's investigation into domestic violence should be objective, fair, and comprehensive, thoroughly understanding the process and harmful consequences experienced by the abused woman. During the investigation, the court should consider opinions from relatives and neighbors related to the abused woman and the perpetrator, who may have a better understanding of whether domestic violence occurred between the parties and the frequency and severity of such violence. For perpetrators with prior convictions who continue to commit domestic violence resulting in serious injury or death to the abused woman, the court should impose severe sentences.

All sectors of society should provide cross-relief for women suffering from domestic violence. In addition to the law effectively addressing the concealment of domestic violence, cross-relief measures should also be effectively implemented when women suffer from domestic violence. Women's federations should coordinate relief efforts from all sectors of society for women suffering from domestic violence, adopting a combination of vertical and horizontal relief methods. Vertically, administrative units and non-governmental organizations at different levels should pay attention to families involved in domestic violence, classifying the severity of domestic violence based on its duration, frequency, and severity. Families with less severe domestic violence should be registered with grassroots units and organizations, while those with more severe cases should be registered with higher-level units and organizations according to the degree of severity. Horizontally, organizations with management functions, such as residents' committees and villagers' committees, should effectively intervene in such matters, actively mediating and resolving conflicts in couples involving domestic violence. If the relationship cannot be reconciled, they should suggest divorce and collect testimonies from neighbors and relatives about the

existence of domestic violence, submitting them to the court as evidence for divorce litigation. When women have reported domestic violence, relevant units and organizations should promptly place such families under close supervision and retain copies of legally binding documents such as domestic violence warning letters. As family members and neighbors of the abused woman and the perpetrator, they should also pay close attention to their situation and not stand idly by.

5. Conclusion

This paper has examined the challenges faced by women subjected to domestic violence in China, with a particular focus on the limitations of the current legal and institutional responses. Case analyses suggest that timely and effective relief is often difficult to obtain, both during the period of ongoing abuse and after severe incidents occur. Multiple factors including the complex and concealed nature of domestic violence, traditional gender norms, and evidentiary barriers contribute to the difficulties women encounter in seeking protection and justice. In some cases, women who retaliate against prolonged abuse face significant legal consequences, raising concerns about the adequacy of current frameworks in recognizing the full context of domestic violence. While progress has been made, such as the introduction of the Anti-Domestic Violence Law, there remain gaps in implementation and inter-agency coordination. Addressing these challenges requires a more proactive and nuanced legal approach that considers the cumulative effects of abuse and ensures early and effective intervention. Enhanced collaboration among judicial authorities, law enforcement, social services, and community organizations is essential for building a more responsive and protective system for women experiencing domestic violence.

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Case No. (2019) Liao Xing Zhong No. 458.

Case No. (2018) Wan Xing Zhong No. 307.

Case No. (2018) Ning Xing Zhong No. 79.

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Case No. (2018) Wan Xing Zhong No. 56.

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